

Michigan Department of State - Bureau of Elections
Richard H. Austin Building 1st Floor
430 W. Allegan St, Lansing, MI 48918

7 July 2022

Complainant	Alleged Violator
Jason A. Watts P.O. Box 216 Allegan, MI 49010-0216 269.998.3991 jaw.watts@gmail.com	CTE Gary Mitchell – Cte # 520431 2977 Hickory Nut Lane Kalamazoo, MI 49004
Section of MCFA alleged to be violated:	MCL 169.247, 168.944

Now appears Mr. Jason A. Watts, Complainant, PO Box 216, Allegan, MI 49010, making his complaint against Committee to Elect (CTE) Gary Mitchell, 2977 Hickory Nut Lane, Kalamazoo, MI 49004. In this complaint, Mr. Watts states:

1. That CTE Gary Mitchell is the committee for Gary Mitchell, candidate for State House of Representatives – 42nd District, filed with the Michigan Bureau of Elections.
2. That CTE Gary Mitchell is displaying signs with **an incomplete** disclaimer in violation of **MCL 169.247** (photo of sign attached). A proper disclaimer must say: “Paid for by [Committee Name] [Committee Address]”. No address is included on the committee’s signs.
3. That the candidate’s literature has a disclaimer with no committee on file with the Bureau. That disclaimer being: “Paid for by CTE Gary **Mitchel** [emphasis added, the second “L” in Mitchell is omitted] 2977 Hickory Nut Lane, Kalamazoo, MI 49004. This is an example of a complete disclaimer, however, there is no committee named “CTE Gary Mitchel” filed with the Bureau. (photo attached)
4. That the committee is displaying a second incomplete disclaimer on its website. That being: “Site paid for by CTE Gary Mitchell **PHD**”. There is no committee on file with the name “CTE Gary Mitchell PHD” with the Bureau (photo provided).

5. That the committee's logo and all printed materials has no for, elect, or vote, thus giving the appearance of false incumbency in violation of MCL 168.944:

168.944 False designation of incumbency; misdemeanor.

Any person who advertises or uses in any campaign material, including radio, television, newspapers, circulars, cards, or stationery, the words incumbent, re-elect, re-election, or otherwise indicates, represents, or gives the impression that a candidate for public office is the incumbent, when in fact the candidate is not the incumbent, is guilty of a misdemeanor punishable as provided in section 934.

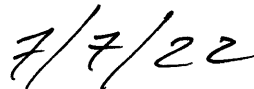
Complainant will refer the violation of MCL 168.944 to the Kalamazoo County Prosecuting Attorney's Office for their determination if there should be any further action against CTE Gary Mitchell.

Mr. Watts believes that CTE Gary Mitchell by not having a complete disclaimer on their signs, yet having a proper disclaimer on their literature (although candidate's name is misspelled) is knowingly trying to circumvent the MCFA **169.247** and that a **\$1,000 fine**, imprisonment for up to **93 days**, or **both** be assessed.

I certify that to the best of my knowledge, information, and belief, formed after reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.



Jason A. Watts, Complainant



Date



Gary
Mitchell PhD

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Paid for by CTE Gary Mitchel; 2977 HICKORY NUT LANE KALAMAZOO, MI 49004



 Gary
Mitchell PhD
State House - District 41

Submit



Site paid for by CTE Gary Mitchell
PHD



AA

 garymitchellphd.com





STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

September 22, 2022

CTE Gary Mitchell
2977 Hickory Nut Lane
Kalamazoo, MI 49004

Via email

Re: *Watts v. Mitchell*
Campaign Finance Complaint No. 2022 – 09 – 97 – 247

Dear Mr. Mitchell

The Department of State (Department) has received a formal complaint from Jason A. Watts alleging you have violated MCL 169.247 of the Michigan Campaign Finance Act (MCFA) by failing to include an identification statement on yard signs promoting your candidacy. The complaint also alleges that the disclaimers you display on your campaign literature and website include a misspelling of your name and an honorific that do not accurately reflect your committee's name on file with the Bureau of Elections.¹ A picture of the yard sign, literature, and website were included with the complaint; a copy of the complaint is enclosed.

Additionally, the complaint alleges that you gave an appearance of false incumbency in your campaign materials. Because you did not use the words "incumbent" or "re-elect" or similarly give the impression that you are an incumbent, this seems unlikely. However, such an act would be a misdemeanor under section 944 of the Michigan Election Law (MEL) and its investigation is under the purview of law enforcement and local prosecutors. MCL 168.940, 168.941. Accordingly, the complaint alleging a violation of the MEL is dismissed and this letter only concerns the potential violation of the MCFA.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), R 169.36(2). A knowing violation constitutes

¹ The Department notes that the filing official is responsible for determining issues of substantial compliance when they accept the campaign statement. MCL 169.216(6). This means that, while the Department will investigate complaints alleging unreported or under-reported contributions or expenditures, the Department will not investigate complaints alleging de minimus mistakes in contributor names, reported addresses, or similar issues.

a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(6).

Upon review, the evidence submitted supports the conclusion that a potential violation of the Act has occurred. From the outset, the Department must consider whether the materials fall within the ambit of the MCFA. Because the materials explicitly advocate for the election or defeat of a candidate, or for the passage or defeat of a ballot proposal, the materials contain express advocacy as defined by the Act. MCL 169.206(2)(j). As explained above, such materials must contain a “paid for by” statement listing the name and address of the committee purchasing the materials. However, the evidence shows that the materials at issue here omit part or all of that required statement. That absence supports the conclusion that a potential violation of the MCFA has occurred.

After reaching this conclusion, the Act requires the Department to “endeavor to correct the violation or prevent a further violation by using informal methods” if it finds that “there may be reason to believe that a violation ... has occurred [.]” MCL 169.215(10). The objective of an informal resolution is “to correct the violation or prevent a further violation.” *Id.*

Given this, the Department concludes that a formal warning is a sufficient resolution to the complaint and is hereby advising you that MCL 169.247(1) and R 169.36(2) require you to print a complete and accurate identification statement on all campaign materials, consisting of the phrase “paid for by” followed by the full name and address of your committee.

Note that all printed materials referencing you or your candidacy produced in the future must include this identification statement. For all materials currently in circulation, the paid for by statement must be corrected. If this information has been included in your materials and you wish to rebut the Department’s conclusion, you must respond in writing to the Department at the address below or BOERegulatory@michigan.gov within 15 business days of the date of this letter; otherwise the Department will treat the complaint as resolved.

Please be advised that this notice has served to remind you of your obligation under the Act to identify your printed matter and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(6), 215(10).

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

c: Jason A. Watts